

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

KAREN SPRADLIN,
Plaintiff,

2022 JAN 24 PM 4: 50
MINGO COUNTY CIRCUIT CLERK

v.

Civil Action No.

BRUCE JOHNSON and
FAMILY TREE SERVICE LLC,
Defendants.

COMPLAINT

Now comes your Plaintiff KAREN SPRADLIN, by counsel, Jeffrey S. Simpkins, Simpkins Law, and for this cause of action against Defendant Bruce Johnson ("Defendant Johnson"), and Defendant Family Tree Service, LLC ("Defendant Family Tree Service"), hereby aver as follows:

PARTIES

1. Plaintiff Karen Spradlin is a West Virginia citizen residing at 307 Right Fork Beech Creek, Matewan, West Virginia, 25678.
2. Defendant Johnson is an Iowa citizen residing at 2124 S 3rd Street, Burlington, Iowa, 52601.
3. Defendant Family Tree Service is a foreign limited liability company transacting business in West Virginia with a principal office address of 3640 Copper Oak Circle, Green Bay, Wisconsin, 54313.

JURISDICTION AND VENUE

4. Mingo County Circuit Court has original and general jurisdiction pursuant to West Virginia Code § 51-2-2(b).

5. Venue is proper in Mingo County Circuit Court pursuant to West Virginia Code § 56-1-1(a)(1).

FACTS

6. On 8 July 2021, Defendant Johnson, who at all times relevant herein was Defendant Family Tree Service's agent or employee acting within the scope of the agency or employment and with Defendant Family Tree Service's express or implied permission, operated a commercial motor vehicle in such a careless matter that he began backing down Calico Mountain near Beech Creek, Mingo County, West Virginia, when he struck the vehicle operated by the Plaintiff, Karen Spradlin, causing disabling damage to the vehicle; and directly and proximately caused a collision on WV Route 8 in Mingo County, West Virginia.

COUNT I

NEGLIGENCE – DEFENDANT JOHNSON

7. Plaintiff Karen Spradlin adopts and incorporates the preceding averments by reference as if fully set forth verbatim herein.

8. Defendant Johnson had a duty to exercise reasonable care and precaution while driving.

9. Defendant Johnson breached the duty of reasonable care and precaution by negligently and unlawfully failing to keep a sufficient visual lead and proper lookout; failing to maintain control; and by improperly backing the single unit truck into the vehicle driven by Karen Spradlin in violation of WV Code 17C-14-2; and directly and proximately causing the collision.

10. Plaintiff Karen Spradlin sustained serious and permanent bodily injuries as

a direct and proximate result of Defendant Johnson's negligence.

11. Plaintiff Karen Spradlin has experienced, and will continue in the future to experience, pain and suffering as a direct and proximate result of Defendant Johnson's negligence.

12. Plaintiff Karen Spradlin has experienced, and will continue in the future to experience, mental anguish as a direct and proximate result of Defendant Johnson's negligence.

13. Plaintiff Karen Spradlin has incurred, and will continue in the future to incur, reasonable and necessary medical expenses as a direct and proximate result of Defendant Johnson's negligence.

14. Plaintiff Karen Spradlin has sustained, and will continue in the future to sustain, an impairment of the ability to enjoy life as a direct and proximate result of Defendant Johnson's negligence.

15. Plaintiff Karen Spradlin has sustained compensatory damages in excess of the jurisdictional limit of Mingo County Circuit Court as a direct and proximate result of Defendant Johnson's negligence.

COUNT II

NEGLIGENCE – Defendant Family Tree Service

16. Plaintiff Karen Spradlin adopts and incorporates the preceding averments by reference as if fully set forth verbatim herein.

17. Defendant Family Tree Service had a duty to exercise reasonable care and precaution to prevent agents and/or employees from driving commercial vehicles in such a careless or reckless manner causing collisions with other motor vehicles, ie., by failing

to maintain vehicles under proper control and improper backing which was the direct and proximate cause of the collision.

18. Plaintiff Karen Spradlin sustained serious and permanent bodily injuries as a direct and proximate result of Defendant Family Tree Service's negligence.

19. Plaintiff Karen Spradlin has experienced, and will continue in the future to experience, pain and suffering as a direct and proximate result of Defendant Family Tree Service's negligence.

20. Plaintiff Karen Spradlin has experienced, and will continue in the future to experience, mental anguish as a direct and proximate result of Defendant Family Tree Service's negligence.

21. Plaintiff Karen Spradlin has incurred, and will continue in the future to incur, reasonable and necessary medical expenses as a direct and proximate result of Defendant Family Tree Service's negligence.

22. Plaintiff Karen Spradlin has sustained, and will continue in the future to sustain, an impairment of the ability to enjoy life as a direct and proximate result of Defendant Family Tree Service's negligence.

23. Plaintiff Karen Spradlin has sustained compensatory damages in excess of the jurisdictional limit of Mingo County Circuit Court as a direct and proximate result of Defendant Family Tree Service's negligence.

COUNT IV

VICARIOUS LIABILITY

24. Plaintiff Karen Spradlin adopts and incorporates the preceding averments by reference as if fully set forth verbatim herein.

25. Pursuant to the rule of *respondeat superior*, Defendant Family Tree Service is vicariously liable for the torts committed by Defendant Johnson within the scope of the agency or employment with Defendant Family Tree Service. See Musgrove v. Hickory Inn Inc., 168 W.Va. 65, 281 S.E.2d 499 (1981).

26. Pursuant to the initial permission rule, Defendant Family Tree Service is vicariously liable for the negligence of Defendant Johnson during the permissive use. See Universal Underwriters Ins. Co. v. Taylor, 185 W. Va. 606, 408 S.E.2d 358 (1991).

COUNT V

PUNITIVE DAMAGES

27. Plaintiff Karen Spradlin adopts and incorporates the preceding averments by reference as if fully set forth verbatim herein.

28. Defendant Johnson and Defendant Family Tree Service engaged in conduct that was carried out with a conscious, reckless, and outrageous indifference to the health, safety, and welfare of others. See *West Virginia Code* § 55-7-29(a).

DEMAND

Plaintiff Karen Spradlin hereby demand judgment against Defendant Johnson and Defendant Family Tree Service in excess of the jurisdictional limit of Mingo County Circuit Court for the following damages and other relief:

- (a) Serious and permanent bodily injuries;
- (b) Past and future pain and suffering;
- (c) Past and future mental anguish;
- (d) Past and future medical expenses;
- (e) Past and future impairment of the ability to enjoy life;

- (f) Past and future loss of consortium;
- (g) Punitive damages;
- (h) Statutory judgment interest pursuant to West Virginia Code § 56-6-31; and
- (i) Such other relief deemed appropriate under the circumstances.

*PLAINTIFFS DEMAND A JURY TRIAL

KAREN SPRADLIN
By Counsel

s/Jeffrey S. Simpkins
Jeffrey S. Simpkins, Esq.
WVSB #9806
SIMPKINS LAW
102 E. 2nd Ave.
Williamson, WV 25661
304.235.2735
simpkinslawoffice@gmail.com

CIVIL CASE INFORMATION STATEMENT
(Civil Cases Other than Domestic Relations)

I. CASE STYLE:

ADMITTED TO RECORD Case No. _____

Plaintiff(s)

KAREN SPRADLIN

2022 JAN 24 PM 4:56 Judge: _____

THOMPSON

307 RIGHT FORK BEECH CREEK

MINGO COUNTY CIRCUIT CLERK

Plaintiff's Phone: 304.426.8813

MATEWAN, WV 25678

vs.

Days to

Answer

Type of Service

30

SECRETARY OF STATE

Defendant(s)

BRUCE JOHNSON

Name

2124 S 3RD STREET

Defendant's Phone: _____

Street Address

BURLINGTON, IOWA 52601

City, State, Zip Code

II. TYPE OF CASE:

- | | |
|--|---|
| <input checked="" type="checkbox"/> General Civil | <input type="checkbox"/> Adoption |
| <input type="checkbox"/> Mass Litigation [As defined in T.C.R. 26.04(a)] | <input type="checkbox"/> Administrative Agency Appeal |
| <input type="checkbox"/> Asbestos | <input type="checkbox"/> Civil Appeal from Magistrate Court |
| <input type="checkbox"/> FELA Asbestos | <input type="checkbox"/> Miscellaneous Civil Petition |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Mental Hygiene |
| <input type="checkbox"/> Habeas Corpus/Other Extraordinary Writ | <input type="checkbox"/> Guardianship |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Medical Malpractice |

III. JURY DEMAND: ☒ Yes ☐ No CASE WILL BE READY FOR TRIAL BY (Month/Year): _____ / _____

**IV. DO YOU OR ANY
OF YOUR CLIENTS
OR WITNESSES
IN THIS CASE
REQUIRE SPECIAL
ACCOMMODATIONS?**

☐ Yes ☒ No

IF YES, PLEASE SPECIFY:

- ☐ Wheelchair accessible hearing room and other facilities
☐ Reader or other auxiliary aid for the visually impaired
☐ Interpreter or other auxiliary aid for the deaf and hard of hearing
☐ Spokesperson or other auxiliary aid for the speech impaired
☐ Foreign language interpreter-specify language: _____
☐ Other: _____

Attorney Name: JEFFREY S. SIMPKINS

Firm: SIMPKINS LAW

Address: 102 EAST SECOND AVE, WILLIAMSON, WV 25661

Telephone: 304.235.2735

Representing:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Plaintiff | <input type="checkbox"/> Defendant |
| <input type="checkbox"/> Cross-Defendant | <input type="checkbox"/> Cross-Complainant |
| <input type="checkbox"/> 3rd-Party Plaintiff | <input type="checkbox"/> 3rd-Party Defendant |

☐ Proceeding Without an Attorney

Original and _____ copies of complaint enclosed/attached.

Dated: 1 / 24 / 22

Signature: _____

Plaintiff: KAREN SPRADLIN

, et al

Case Number: _____

vs.

Defendant: BRUCE JOHNSON ET AL

, et al

**CIVIL CASE INFORMATION STATEMENT
DEFENDANT(S) CONTINUATION PAGE**

FAMILY TREE SERVICE LLC

Defendant's Name

3640 COPPER OAK CIRCLE

Street Address

Green Bay, WISCONSIN 54313

City, State, Zip Code

Defendant's Phone: _____

Days to Answer: 30Type of Service: SECRETARY OF STATE

Defendant's Name

Street Address

City, State, Zip Code

Defendant's Phone: _____

Days to Answer: _____

Type of Service: _____

Defendant's Name

Street Address

City, State, Zip Code

Defendant's Phone: _____

Days to Answer: _____

Type of Service: _____

Defendant's Name

Street Address

City, State, Zip Code

Defendant's Phone: _____

Days to Answer: _____

Type of Service: _____

Defendant's Name

Street Address

City, State, Zip Code

Defendant's Phone: _____

Days to Answer: _____

Type of Service: _____

Defendant's Name

Street Address

City, State, Zip Code

Defendant's Phone: _____

Days to Answer: _____

Type of Service: _____

Defendant's Name

Street Address

City, State, Zip Code

Defendant's Phone: _____

Days to Answer: _____

Type of Service: _____

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

KAREN SPRADLIN,
Plaintiff,

v.

Civil Action No.

22-C-3

BRUCE JOHNSON and
FAMILY TREE SERVICE LLC,
Defendants.

TO: West Virginia Secretary of State Mac Warner

SERVE: Bruce Johnson
2124 S 3rd Street
Burlington, Iowa 52601

SUMMONS

Within **30 days** after service of this Summons on you, exclusive of the day of service, you are required to file and serve an Answer, including any defense or counterclaim, to the Complaint delivered herewith. You must file your Answer with the Court and serve a copy thereof on the Plaintiff's Attorney:

JEFFREY S SIMPKINS ESQ
SIMPKINS LAW OFFIC PLLC
102 E 2ND AVE
WILLIAMSON WV 25661

If you fail to respond, judgment by default will be entered against you for the relief demanded in the Complaint and you will be barred from asserting in another action any defense or counterclaim that must be asserted in this action.

Date: 24 January 2022



Circuit Clerk

By: 

Deputy Clerk

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

KAREN SPRADLIN,
Plaintiff,

v.

Civil Action No. *22-C-3*

BRUCE JOHNSON and
FAMILY TREE SERVICE LLC,
Defendants.

TO: West Virginia Secretary of State Mac Warner

SERVE: Family Tree Service, LLC
3640 Copper Oak Circle
Green Bay, Wisconsin 54313

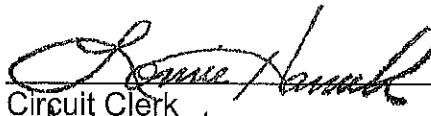
SUMMONS

Within **30 days** after service of this Summons on you, exclusive of the day of service, you are required to file and serve an Answer, including any defense or counterclaim, to the Complaint delivered herewith. You must file your Answer with the Court and serve a copy thereof on the Plaintiff's Attorney:

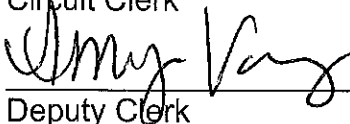
JEFFREY S SIMPKINS ESQ
SIMPKINS LAW OFFIC PLLC
102 E 2ND AVE
WILLIAMSON WV 25661

If you fail to respond, judgment by default will be entered against you for the relief demanded in the Complaint and you will be barred from asserting in another action any defense or counterclaim that must be asserted in this action.

Date: 24 January 2022


Circuit Clerk

By:


Deputy Clerk